IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:-

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

FRIDAY, THE 23RD MARCH 2007 / 2ND CHAITHRA 1929

M.F.A.No.1068 of 2002(B)

O.P.(M.V.).NO.1308/1994 OF MOTOR ACCIDENTS CLAIMS TRIBUNAL, PALAKKAD.

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APPELLANT: PETITIONER:-

KUMARAN,
S/O.KUNCHUTHARAKAN,
THALLUMANNAM, PALLASSENA P.O.
CHITTUR, PALAKKAD.

BY ADV. SRI.T.M.SUNIL
SMT.S.CHITHRA

RESPONDENTS: RESPONDENTS:-

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1. HARI @ HARIPRASAD, S/O.MANIYAN,
   PALLASSENA, CHITTUR, PALAKKAD.

2. SATHEESH KUMAR, S/O.SIVADAS,
   AZHAKAPADATHUKULAM, KOLLENGODE,
   CHITTUR, PALAKKAD.

3. UNITED INDIA INSURANCE CO.LTD.,
   G.B.ROAD, PALAKKAD.

R1 & R2 BY ADV. SRI.H.BADARUDDIN
SMT.AYSHA RAHMAN

R3 BY ADV.SMT.T.C.SOWMIAVATHY.

THIS MISCELLANEOUS FIRST APPEAL HAVING BEEN FINALLY HEARD ON 23/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.Padmanabhan Nair,J.

M.F.A.No.1068 of 2002-B

Dated, this the 23rd day of March, 2007

JUDGMENT

The applicant in O.P.(M.V.).No.1308 of 1994 on the file of Motor Accidents Claims Tribunal, Palakkad is the appellant. The appellant met with an accident on 6.11.1993 and sustained injuries. The appellant was waiting on the side of a road for a bus. At that point of time, a stage carriage bus driven by the 1st respondent came and hit against the appellant. According to the appellant, the accident occurred due to the rash driving of the bus by its driver. He claimed an amount of Rs.81,000/-. The Tribunal found that the accident occurred due to the negligence of the driver of the bus and the appellant is entitled to get a compensation to the tune of Rs.14,150/-. Challenging the quantum of compensation, the claimant has filed this appeal.

2. It is seen that the appellant sustained a clavicle fracture and fracture of ribs 2 to 8, which means that he sustained serious injuries on the left side of his body. He was

treated as an inpatient from 6.11.1993 to 11.11.1993. According to the appellant, thereafter also he continued treatment for another three months. The Tribunal has awarded only Rs.2,500/- for treatment expenses. That amount is too low. I am of the view that the Tribunal ought to have awarded at least Rs.5,000/- on that count. So, I am awarding an additional amount of Rs.2,500/- for treatment expenses. The Tribunal has awarded Rs.6,000/- only for pain and suffering. Considering the nature of injuries sustained by the appellant, I am of the view that the Tribunal ought to have awarded at least an amount of Rs.10,000/- on that count. So, the appellant is entitled to get another Rs.4,000/- for pain and suffering. It is true that the appellant has not produced disability certificate. But, considering the age of the appellant and the income that he was getting, I am of the view that an amount of Rs.7,500/- can be awarded for loss of amenities as well as loss of income. So, the appellant is entitled to get an additional compensation of Rs.14,000/- in addition to the compensation already awarded. The said amount will carry interest at the rate of 7% per annum from the date of petition till realisation. The Insurer is liable to pay that amount also.

In the result, the appeal is allowed in part. It is found that the appellant is entitled to get another Rs.14,000/- (Rupees fourteen thousand only) as additional compensation with interest at 7% per annum from the date of petition till realisation. The Insurer shall deposit the said amount within two months from today.

K.Padmanabhan Nair
Judge

vku/-